UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,087	02/27/2004	Paul M. Dantzig	YOR920030580US1	7520

7590   08/31/2007

William E. Lewis
RYAN, MASON & LEWIS, LLP
90 Forest Avenue
Locust Valley, NY 11560

EXAMINER
HU, JINSONG

ART UNIT	PAPER NUMBER
2154	

MAIL DATE	DELIVERY MODE
08/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/789,087	DANTZIG ET AL.
	Examiner	Art Unit	
	Jinsong Hu	2154	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _24 February 2006_.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-20_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _3/29/04, 10/29/04_.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claim 16 is rejected under 35 U.S.C. 101 because the claim directs to a machine readable medium, which is a non-statutory subject matter.

Correction is required.

4.   Claims 1-20 are rejected under 35 U.S.C. 1 12, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The claim language in the following claims is not clearly understood.

It is uncertain the relationship between "performance characteristics of at least one server" in claim 1 and "characteristics of at least one server" in claim 9 [i.e., are they the same feature]; It is not clearly understood the meaning of "level of data accuracy" and "level of personalization", i.e., how the system determining the level, it has not been clarified in the claims.

Corrections are required.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ebata

et al. (US 6,973,485).

7.   As per claims 1 and 2, Ebata teaches the invention as claimed including a

method of delivering content in a client-server system based on a request from a client

[col. 1, lines 11-15], comprising the steps of:

      obtaining the request [400, Fig. 4; col. 9, lines 48-50 & 57-67; col. 10, lines 4-9];

      determining a performance characteristic of at least one server or at least one

cache of the client-server system [col. 4, line 48 – col. 5, line 3; col. 11, lines 54-64]; and

      determining a level of data accuracy to be delivered to the client in response to

the request, the determination being based on: (i) the determined performance

characteristic of the at least one server or the at least one cache; and (ii) at least one

preference associated with the client [col. 5, lines 4-24 & 46-55; col. 9, lines 29-35; col.

11, lines 29-47 & 54-64].

8.   As per claims 3 and 4, Ebata teaches the determination of a level of data

accuracy on at least one personalization preference [col. 20, lines 6-18].

9.   As per claim 5, Ebata teaches the step of forming a hierarchy comprising the at

least one server and the at least one cache before the step of determining a

performance characteristic [Fig. 1].

10. As per claims 6 and 7, Ebata teaches the step of delivering content in a client-

server system comprises delivering one or more Web pages [col. 1, lines 58-65; col. 2,

lines 3-8].

11.   As per claim 8, Ebata teaches the step of creating a personalized Web page

based on the determined level of accuracy [col. 17, lines 25-36].

12.   As per claim 9, Ebata teaches the invention as claimed including a method of

delivering content in a client-server system based on a request from a client [col. 1,

lines 11-15], comprising the steps of:

        obtaining the request [400, Fig. 4; col. 9, lines 48-50 & 57-67; col. 10, lines 4-9];

        determining a characteristic of at least one server and at least one cache of the

client-server system [col. 4, line 48 – col. 5, line 3; col. 11, lines 54-64]; and

        determining a level of data accuracy to be delivered to the client in response to

the request, the determination being based on: (i) the determined characteristic of the at

least one server and the at least one cache; and (ii) at least one preference associated

with the client [col. 5, lines 4-24 & 46-55; col. 9, lines 29-35; col. 11, lines 29-47 & 54-

64].

13.   As per claim 10, Ebata teaches the invention as claimed including a method of

delivering content in a client-server system based on a request from a client [col. 1,

lines 11-15], comprising the steps of:

obtaining the request [400, Fig. 4; col. 9, lines 48-50 & 57-67; col. 10, lines 4-9];

determining a characteristic of at least one server or at least one cache of the

client-server system [col. 4, line 48 – col. 5, line 3; col. 11, lines 54-64]; and

determining a level of personalization to be delivered to the client in response to

the request, the determination being based on: (i) the determined characteristic of the at

least one server or the at least one cache; and (ii) at least one preference associated

with the client [col. 5, lines 4-24 & 46-55; col. 9, lines 29-35; col. 11, lines 29-47 & 54-

64].

14.   As per claims 11-15, since they are apparatus claims of 1-3, 5 and 7, they are

rejected for the same basis as claims 1-3, 5 and 7 above.

15.   As per claims 16 and 20, since they are manufacture and system claims of claim

1, they are rejected for the same basis as claim 1 above.

16.   As per claims 17-19, since they teach the same limitations as claims 1-3, they are rejected for the same basis as claims 1-3 above.

Conclusion

17.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Ballard (US 6,078,960), Aoki (US 6,182,138) and Inoue et al. (US 2003/0108052) disclose method for selecting server based on load balance.

18.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinsong Hu whose telephone number is (571) 272-3965. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Jinsong Hu

August 29, 2007